

**FIRST AMENDMENT TO  
PILOT AGREEMENT**

THIS FIRST AMENDMENT TO PILOT AGREEMENT (this “Amendment”) dated as of September 1, 2019 (the “Effective Date”), by and among the NASSAU COUNTY INDUSTRIAL DEVELOPMENT AGENCY, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation of the State of New York, having an office at One West Street, 4th floor, Mineola, NY 11501 (the “Agency”) and BLUE CASSEL COMMERCIAL REALTY, LLC, a limited liability company organized and existing under the laws of the State of New York, having an office at 90-11 160th Street, Suite 100, Jamaica, New York 11437 (the “Company”).

**RECITALS**

WHEREAS, on or about and around 2008, the Company and Blue Cassel Site A Realty, LLC, a limited liability company duly organized and existing under the laws of the State of New York (the “Residential Applicant” and together with the Company the “Applicants”) presented a joint application for financial assistance (as amended the “2008 Application”) to the Agency, which 2008 Application requested that the Agency consider undertaking a project (the “2008 Project”) consisting of the following: (A)(1) the acquisition of an interest in parcels of land located at 701, 715, 721 and 729 Prospect Avenue, New Cassel, Town of North Hempstead, County of Nassau, New York (the “Land”); (2) the construction of an approximately 123,250 square foot building (inclusive of indoor parking), together with related improvements, on the Land (collectively the “Building”), 19,740 square feet of which is ground floor commercial (the “Commercial Realty”) and (3) the acquisition and installation therein and thereon of certain furniture, fixtures, machinery and equipment, excluding any subtenant equipment with respect to the retail portion of the Building (the “Equipment”), all of the foregoing to constitute a mixed-use residential/commercial facility (the “2008 Project Facility”); (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the Act with respect to the foregoing, including potential exemptions or partial exemptions from sales and use taxes, mortgage recording taxes, and real property taxes (but not including special assessments and ad valorem levies) (the “2008 Financial Assistance”); (C) the lease (with an obligation to purchase) or sale of the residential portion of the 2008 Project Facility, which includes the Commercial Realty, to the Company; (D) the guaranty by The Bluestone Organization, Inc. (“Guarantor”) of the obligations of the Applicants in connection with the 2008 Project (the “Guaranty”); and (E) the environmental compliance and indemnification agreement from the Company and the Guarantor in favor of the Agency (the “Environmental Indemnification”); and

WHEREAS, the 2008 Project was a part of a coordinated effort by the Town of North Hempstead to revitalize and create a walkable downtown in the Hamlet of New Cassel and after almost 10 years, approximately 1,620 square feet of the Commercial Realty has yet to be leased up; and

WHEREAS, the Company acknowledges the receipt and application of the 2008 Financial Assistance; and

WHEREAS, in December 2018, the Company presented an application for additional financial assistance (the “2019 Application”) to the Agency, which 2019 Application requested that the Agency consider undertaking an amendment of the 2008 Project (as so amended, the “Project”) consisting of the following: (A) the retention of the Commercial Realty; (B) the granting of certain “financial assistance” within the meaning of Section 854(14) of the Act with respect to the foregoing, including potential exemptions or partial exemptions from real property taxes (but not including special assessments and ad valorem levies) for the Commercial Realty (“Financial Assistance”); (C) that certain Lease Agreement, dated as of December 1, 2008, as amended, restated, supplemented, or modified from time to time, including, without limitation that certain First Amendment to Lease Agreement, dated as of September 1, 2019; (D) a reaffirmation and ratification of the Guaranty; (E) a reaffirmation and ratification of the Environmental Indemnification; (F) the Uniform Project Agreement, dated as of September 1, 2019, between the Company and the Agency; (G) this Amendment; and (H) such other certificates, documents, instruments, and agreements related to the Project; and

WHEREAS, pursuant to a certain Payment in Lieu of Taxes Agreement dated as of December 1, 2008 (the “PILOT Agreement”), by and between the Company and the Agency, the Company agreed to make certain payments in lieu of real property taxes with respect to the Premises and the improvements thereon, and such obligation is secured by a certain Mortgage and Assignment of Leases and Rents, dated as of December 1, 2008 (the “PILOT Mortgage”), made by the Agency and the Company, as mortgagors, in favor of the County of Nassau, as mortgagee (in such capacity, the “PILOT Mortgagee”), pursuant to which the Agency and the Company granted a first mortgage lien on the Land and the improvements thereon to the PILOT Mortgagee; and

WHEREAS, the members of the Agency approved the Project and the Financial Assistance pursuant to a resolution adopted on May 16, 2019 and authorized the Agency *inter alia*, to enter into this Amendment; and

WHEREAS, the Agency and the Company wish to amend the PILOT Agreement to provide for partial additional abatement from real property taxes for the benefit of the Company; and

### AGREEMENTS

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company and the Agency mutually covenant, warrant and agree as follows:

1. Amendments:

- a. Subsection (B) (i) of Section 2 of the PILOT Agreement is amended and restated in its entirety to read as follows:

“(B) PILOT Payments. (i) From the Amended Abatement Commencement Date through and including the last day of the twentieth (20th) fiscal tax year thereafter (such date, the “Amended Abatement Expiration Date”), the

Company shall make payments in lieu of real property taxes and assessments levied and/or assessed by the Taxing Entities against or with respect to the Facility, as follows:

(a FT Year 1) for the fiscal tax year commencing on the PILOT Commencement Date, \$60,211.62;

(b FT Year 2) for the fiscal tax year commencing on the 1<sup>st</sup> anniversary of the PILOT Commencement Date, \$67,742.70;

(c FT Year 3) for the fiscal tax year commencing on the 2<sup>nd</sup> anniversary of the PILOT Commencement Date, \$75,871.46;

(d FT Year 4) for the fiscal tax year commencing on the 3<sup>rd</sup> anniversary of the PILOT Commencement Date, \$84,014.97;

(e FT Year 5) for the fiscal tax year commencing on the 4<sup>th</sup> anniversary of the PILOT Commencement Date, \$92,790.99;

(f FT Year 6) for the fiscal tax year commencing on the 5<sup>th</sup> anniversary of the PILOT Commencement Date, \$102,017.96;

(g FT Year 7) for the fiscal tax year commencing on the 6<sup>th</sup> anniversary of the PILOT Commencement Date, \$111,715.04;

(h FT Year 8) for the fiscal tax year commencing on the 7<sup>th</sup> anniversary of the PILOT Commencement Date, \$121,902.13;

(i FT Year 9) for the fiscal tax year commencing on the 8<sup>th</sup> anniversary of the PILOT Commencement Date, \$132,599.90; and

(j FT Year 10) for the fiscal tax year commencing on the 9<sup>th</sup> anniversary of the PILOT Commencement Date, \$143,829.82– **FOR THE AVOIDANCE OF DOUBT SUCH PAYMENT BEING THE PILOT PAYMENT FOR THE 2018/19 School Tax Year and 2019 GENERAL TAX YEAR; and**

(k FT Year 11) for the fiscal tax year commencing on the 10<sup>th</sup> anniversary of the PILOT Commencement Date, \$120,591.00;

(l FT Year 12) for the fiscal tax year commencing on the 11<sup>th</sup> anniversary of the PILOT Commencement Date, \$120,591.00;

(m FT Year 13) for the fiscal tax year commencing on the 12<sup>th</sup> anniversary of the PILOT Commencement Date, \$120,591.00;

(n FT Year 14) for the fiscal tax year commencing on the 13<sup>th</sup> anniversary of the PILOT Commencement Date, \$120,591.00;

(o FT Year 15) for the fiscal tax year commencing on the 14<sup>th</sup> anniversary of the PILOT Commencement Date, \$120,591.00;

(p FT Year 16) for the fiscal tax year commencing on the 15<sup>th</sup> anniversary of the PILOT Commencement Date, \$122,810.00;

(q FT Year 17) for the fiscal tax year commencing on the 16<sup>th</sup> anniversary of the PILOT Commencement Date, \$125,069.00;

(r FT Year 18) for the fiscal tax year commencing on the 17<sup>th</sup> anniversary of the PILOT Commencement Date, \$127,370.00;

(s FT Year 19) for the fiscal tax year commencing on the 18<sup>th</sup> anniversary of the PILOT Commencement Date, \$129,714.00; and

(t FT Year 20) for the fiscal tax year commencing on the 19<sup>th</sup> anniversary of the PILOT Commencement Date, \$132,101.00 – **FOR THE AVOIDANCE OF DOUBT SUCH PAYMENT BEING THE PILOT PAYMENT FOR THE 2028/29 School Tax Year and 2029 GENERAL TAX YEAR.**

2. Representations, Covenants and Warranties. All terms, conditions, covenants, representations and warranties of the Company contained in the PILOT Agreement, except as expressly modified hereby, are hereby adopted, ratified and confirmed by the Company as of the date hereof, remain in full force and effect as of the date hereof, and are subject to the terms of this Amendment. Provided further that the Agency and the Company expressly recognizes that the PILOT Mortgage continues to secure the Secured Obligations, as such term is defined in the PILOT Mortgage that includes the PILOT Obligations (as such term is defined in the PILOT Mortgage) that includes the additional PILOT Payments provided for herein.

7. Governing Law. This Amendment, the transactions described herein and the obligations of the parties hereto shall be construed under, and governed by, the laws of the State of New York, as in effect from time to time, without regard to principles of conflicts of laws.

8. Successors and Assigns. The Company and the Agency, shall include the legal representatives, successors and assigns of those parties. This Amendment shall inure to the benefit of and shall be binding upon the parties and their respective successors and assigns.

9. Counterparts. This Amendment may be executed in any number of counterparts and by the Company and the Agency on separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same Amendment.

10. Severability. Any provision of this Amendment held by a court of competent jurisdiction to be invalid or unenforceable shall not impair or invalidate the remainder of this Amendment and the effect thereof shall be confined to the provision so held to be invalid or unenforceable.

11. Conflicting Provisions. In the event of any conflict in the terms and provisions of this Amendment and the terms and provisions of the PILOT Agreement, the terms and provisions of this Amendment shall govern.


12. Entire Agreement. This Amendment constitutes the entire agreement and understanding between the parties hereto with respect to the transactions contemplated hereby and supersedes all prior negotiations, understandings, and agreements between such parties with respect to such transaction.

*(Remainder of Page Intentionally Left Blank – Signature Pages Follow)*

*(Signature Page to First Amendment to PILOT)*

IN WITNESS WHEREOF, this Amendment has been duly executed by the parties hereto as of the day and year first above written.

**NASSAU COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY**

By:  \_\_\_\_\_  
Harry Coghlan  
Chief Executive Officer / Executive Director

**BLUE CASSEL COMMERCIAL REALTY, LLC**

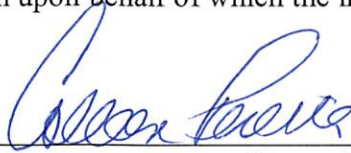
By:  \_\_\_\_\_  
Name: Ira Lichtiger  
Title: Managing Member

(Acknowledgment Page to First Amendment to PILOT)

STATE OF NEW YORK )  
 )SS.:  
COUNTY OF NASSAU )

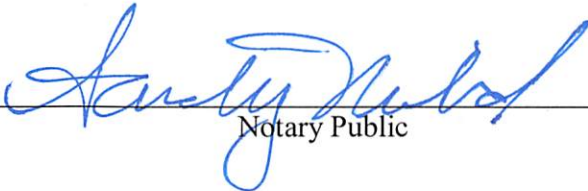
On the 24<sup>th</sup> day of September, 2019, before me, the undersigned, personally appeared **Harry Coghlan**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Colleen Pereira  
Notary Public, State of New York  
No. 01PE6183424  
Qualified in Nassau County  
Commission Expires March 17, 2021

  
\_\_\_\_\_  
Notary Public

STATE OF NEW YORK )  
 )SS.:  
COUNTY OF NASSAU )

On the 25<sup>th</sup> day of September, 2019, before me, the undersigned, personally appeared **Ira Lichtiger**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

  
\_\_\_\_\_  
Notary Public

**SANDY MILORD**  
Notary Public, State of New York  
Reg. No. 02MI6300859  
Qualified in Nassau County  
Commission Expires April 07, 2022